

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

THE TEXAS GENERAL LAND OFFICE; §
and DAWN BUCKINGHAM, M.D., in §
her official capacity as Commissioner of §
the Texas General Land Office, §

Plaintiffs, §

v. §

Case No. 7:21-CV-00272

JOSEPH R. BIDEN, in his official §
capacity as President of the United §
States of America; UNITED STATES §
DEPARTMENT OF HOMELAND §
SECURITY; and ALEJANDRO §
MAYORKAS, in his official capacity §
as Secretary of the United States §
Department of Homeland Security, §

Defendants. §

STATE OF MISSOURI and STATE OF §
TEXAS, §

Plaintiffs, §

v. §

Case No. 7:21-CV-00420

JOSEPH R. BIDEN, in his official §
capacity as President of the United §
States of America; THE UNITED §
STATES OF AMERICA; ALEJANDRO §
MAYORKAS, in his official capacity as §
Secretary of the United States §
Department of Homeland Security; §
UNITED STATES DEPARTMENT OF §
HOMELAND SECURITY; TROY A. §
MILLER, in his official capacity as the §
Acting Commissioner of United States §
Customs and Border Protection; and §
UNITED STATES CUSTOMS AND §
BORDER PROTECTION, §

Defendants. §

(Formerly Case No. 6:21-CV-00052)

**UNOPPOSED MOTION TO JOIN MOTION FOR
PRELIMINARY INJUNCTION**

1. COME NOW the Texas General Land Office and Dawn Buckingham, M.D.,¹ in her official capacity as Commissioner of the Texas General Land Office (hereinafter “GLO”), by and through their attorneys of record, and move the Court to join the in motions for preliminary injunction filed by Missouri and Texas.

2. On July 13, 2021, GLO filed their Original Complaint for Declaratory and Injunctive Relief in this Court, ECF No. 1 (Case 7:21-cv-00272).

3. On October 21, 2021, Missouri and Texas filed a substantially similar lawsuit in the Victoria Division of this Court, ECF No. 1 (Case No. 6:21-CV-00052).

4. Judge Tipton transferred the Missouri and Texas case to this Court, ECF No. 12 (7:21-cv-00420), and this Court ultimately consolidated the cases, ECF No. 32 (Case 7:21-cv-00272).

5. However, before the cases were consolidated, Missouri and Texas filed a Motion for Preliminary Injunction, ECF No. 19 (7:21-cv-00420). And in the order consolidating the cases, this Court granted leave to GLO to file a reply brief in support of Missouri and Texas’s Motion for Preliminary Injunction, ECF No. 23 (Case 7:21-cv-00272). GLO filed a reply brief in support of Missouri and Texas’s Motion for Preliminary Injunction, ECF No. 32 (Case 7:21-cv-00272).²

6. On August 3, 2022, the claims brought by Missouri and Texas were dismissed. ECF No. 57. Accordingly, the Motion for Preliminary Injunction brought by Missouri and Texas was denied as moot. *Id.* GLO and the Defendants proceeded with the case, exchanged some discovery, and litigated the administrative record (ECF Nos. 68,

¹ Before January 10, 2023, the Commissioner of the Texas General Land Office was George P. Bush, but current Commissioner Buckingham will be identified as the party throughout for simplicity.

² Unless otherwise indicated, all future ECF references are to the lead, consolidated case number (Case 7:21-cv-00272).

70, 71, and 80), but ultimately decided to stay the case pending the outcome of Missouri and Texas's appeal to the U.S. Court of Appeals for the Fifth Circuit. ECF No. 81.

7. On June 16, 2023, the U.S. Court of Appeals for the Fifth Circuit issued its opinion on the appeal brought by Missouri and Texas. *Inter alia*, the Fifth Circuit asked this Court to "expeditiously consider the States' motion for a preliminary injunction." ECF No. 85 at 2.

8. As this Court is aware, all parties conferred on the best path forward in the wake of the Fifth Circuit's decision, ECF No. 90, and in accordance with this Court's order. ECF No. 81. As part of that conferral process, counsel for GLO inquired about the parties' position on GLO formally joining the Motion for Preliminary Injunction filed by Missouri and Texas. All parties were unopposed.

9. By permitting GLO to formally join Missouri and Texas's Motion for Preliminary Injunction, there will be no delay. As already indicated, ECF No. 90, GLO agrees that the Motion for Preliminary Injunction should be decided expeditiously and may be resolved without oral argument. Moreover, in formally joining Missouri and Texas's Motion for Preliminary Injunction, GLO formally adopts, as its own, the motion and briefing originally filed by Missouri and Texas, ECF No. 19 (7:21-cv-00420).

10. Moreover, instead of filing a separate reply brief as it did before, ECF No. 32, GLO agrees that its reply in support of the Motion for Preliminary Injunction will be part of a consolidated reply in conjunction with Missouri and Texas. Thus, permitting GLO to formally join the Motion for Preliminary Injunction will not create additional briefing for the Defendants or this Court.

11. Additionally, by permitting GLO to formally join the Motion for Preliminary Injunction, this Court maintains unanimity and simplicity in terms of addressing the substantive issues raised by both complaints as to all parties. Further, the Court can avoid a situation where substantive rulings on the Motion for Preliminary Injunction would not apply to GLO and might leave issues open to be relitigated. Thus,

permitting GLO to formally join the Motion for Preliminary Injunction speaks to judicial economy.

12. WHEREFORE, PREMISES CONSIDERED, GLO respectfully requests that this Court enter an order formally joining GLO to the Motion for Preliminary Injunction filed by Missouri and Texas, ECF No. 19 (7:21-cv-00420).

RESPECTFULLY SUBMITTED this the 7th day of July, 2023,

/s/ Austin R. Nimocks
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Buckingham, M.D.*

CERTIFICATE OF CONFERENCE

On June 30, 2023, I conferred with counsel for Defendants, counsel for Missouri, and counsel for Texas regarding this motion for GLO to formally join the Motion for Preliminary Injunction filed by Missouri and Texas. All parties were unopposed.

/s/ Austin R. Nimocks
Austin R. Nimocks

CERTIFICATE OF SERVICE

In accordance with Fed. R. Civ. P. 5(b) and Local Rule 5.3, I hereby certify that I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing to all counsel of record.

/s/ Austin R. Nimocks
Austin R. Nimocks